



Rule and Interpretive/Policy Statement Review Checklist
(This form must be filled out electronically.)

This form is to be used when the current version of the rule(s) has/have not previously been reviewed. When reviewing an interpretive or policy statement, this document is to be used only if the review of the statement is not in conjunction with the review of a rule.

All responses should be **bolded**.

Document(s) Reviewed (include title):

WAC 458-16-280: Art, Scientific, and Historical Collections

WAC 458-16-282: Musical, dance, artistic, dramatic, and literary associations

Date last adopted/issued: **9/19/99**

Reviewer: **Kim M. Qually**

Date review completed: **11/12/02**

Briefly explain the subject matter of the document(s):

WAC 458-16-280 explains the property tax exemption available to art, scientific, and historical collections under RCW 84.34.060. It describes the criteria that must be satisfied to receive the exemption.

WAC 458-16-282 explains the property tax exemption available under RCW 84.36.060 to organizations that produce and perform musical, dance, artistic, and literary works. The rule defines critical terms, administrative procedures, and requirements that must be met to qualify for the exemption.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

2. Need:

YES	NO	
X		Is the document necessary to comply with the statutes that authorize it?
	X	Is the information provided in the document so obsolete that it is of little value, warranting the repeal or revision of the document?
	X	Have the laws changed so that the document should be revised or repealed?
X		Is the document necessary to protect or safeguard the health, welfare (budget levels necessary to provide services to the citizens of the state of Washington), or safety of Washington's citizens?



Please explain.

RCW 84.36.060 grants a property tax exemption to two different types of nonprofit organizations: (1) Art, scientific, or historical collections of associations maintaining and exhibiting the collections for the benefit of the general public; and (2) Associations engaged in the production and performance of musical, dance, artistic, dramatic, or literary works for the benefit of the general public. WAC 458-16-280 discusses the criteria for exemption for the first type of nonprofit and WAC 458-16-282 explains the exemption available to the second type of associations.

In 1995, effective for property taxes payable in 1995 and thereafter, RCW 84.36.060 was amended to allow for the exemption of museums in the process of being built. The current rule was adopted as a result of this change in 1999.

3. Related interpretive/policy statements, court decisions, BTA decisions, and WTDs:

Complete Subsection (a) only if reviewing a rule. Subsection (b) should be completed only if the subject of the review is an interpretive or policy statement. Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.

(a)

YES	NO	
	X	Are there any interpretive or policy statements that should be incorporated into this rule?
	X	Are there any interpretive or policy statements that should be cancelled because the information is currently included in this or another rule, or the information is incorrect or not needed?
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that provide information that should be incorporated into this rule?
	X	Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the rule?

(b)

YES	NO	
		Should this interpretive or policy statement be incorporated into a rule?
		Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) that affect the information now provided in this document?
		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) that provide information that should be incorporated into the document?

Even though there is a 2002 BTA case, it doesn't provide any information that is not provided in the current text of the rule.



4. Clarity and Effectiveness:

YES	NO	
X		Is the document written and organized in a clear and concise manner?
X		Are citations to other rules, laws, or other authority accurate?
X		Is the document providing the result(s) that it was originally designed to achieve?
	X	Do changes in industry practices warrant repealing or revising this document?
	X	Do administrative changes within the Department warrant repealing or revising this document?

Please explain.

WACs 458-16-280 and 458-16-282 outline the criteria to qualify for the property tax exemptions granted by RCW 84.36.060. Both rules address the 1995 statutory changes. Both rules are written in a clear and concise manner in the format now favored by DOR.

5. Intent and Statutory Authority:

YES	NO	
X		Does the Department have sufficient authority to adopt this document?
X		Is the document consistent with the legislative intent of the statute(s) that authorize it
	X	Is there a need to recommend legislative changes to the statute(s) being implemented by this document?

Please explain.

RCW 84.36.865 grants DOR the authority to adopt rules and regulations as may be necessary or desirable to permit the effective administration of the statutes contained in chapter 84.36 RCW, Exemptions.

6. Coordination: Agencies should consult with and coordinate with other governmental entities that have similar regulatory requirements when it is likely that coordination can reduce duplication and inconsistency.

YES	NO	
	X	Could consultation and coordination with other governmental entities and/or state agencies eliminate or reduce duplication and inconsistency?

Please explain.

The property tax exemptions granted by RCW 84.36.060 are administered by the Property Tax Division at DOR. Local government and other state agencies, as appropriate, are consulted during the rule-making process so the chance of adopting duplicative and/or inconsistent rules is minimal.



7. Cost: When responding, consider only the costs imposed by the document being reviewed and not by the statute.

YES	NO	
	X	Have the qualitative and quantitative benefits of the document been considered in relation to its costs?

Please explain.

These are interpretive rules that do not impose any administrative burdens on taxpayers not imposed by RCW 84.36.060.

8. Fairness: When responding, consider only the impacts imposed by the document being reviewed and not by the statute.

YES	NO	
X		Does the document result in equitable treatment of those required to comply with it?
	X	Should it be modified to eliminate or minimize any disproportionate impacts on the regulated community?
	X	Should the document be strengthened to provide additional protection to correct any disproportionate impact on any particular segment of the regulated community?

Please explain.

The rules apply equally to nonprofit organizations that are eligible for one of the exemptions authorized by RCW 84.36.060. WAC 458-16-280 and 458-16-282 provide the information necessary to determine eligibility for exemption under this statute in a manner that can be understood by both taxpayers and county assessors.

9. LISTING OF DOCUMENTS REVIEWED:

Statute(s) Implemented:

RCW 84.36.060 - Art, scientific and historical collections and property used to maintain, etc., such collections - Property of associations engaged in production and performance of musical, dance, artistic, etc., works - Property to be used for exempt purpose in future - Fire engines, implements, and buildings of cities, towns, or fire companies - Humane societies.

Interpretive and/or Policy Statements (e.g., ETAs, PTAs, IAGs): **none**

Court Decisions: **none**



Board of Tax Appeals Decisions (BTAs):

Kappeler Institute v. DOR, BTA Docket No.50961 (1998) - whether the Institute's personal property (primarily video and audio tape duplicating equipment) qualifies for exemption as a scientific or historical collection (i.e., a museum) under RCW 84.36.060. The BTA found that although there is an educational element to the Institute's activities, the property is used primarily, if not exclusively, to duplicate and sell video and audiotapes of Dr. Kappeler's presentations. This does not constitute "exhibiting" a collection to the general public.

Adams County Historical Society v. DOR, BTA Docket No. 49106 (1996) - whether a building owned by a non-profit historical society is exempt from property tax under RCW 84.36.060 while it is in the process of being remodeled to house the society's historical collection. The BTA found the society had a reasonably specific plan to enable the property to be used for housing the society's collection and granted the property exempt status.

McCleary Historical Society v. DOR, BTA Docket No. 56803 (2002) - whether real property bequeathed, devised, or donated to a museum is "irrevocably dedicated" (RCW 84. 36.805) to museum use when the deed requires that the property revert to the donor's estate if it ceases to be used as a museum within fifty years. The BTA concluded that the museum property is not "irrevocably dedicated" to an exempt use.

Appeal Division Decisions (WTDs): **none**

Attorney General Opinions (AGOs): **none**

Other Documents: **none**

10. Review Recommendation:

- | | |
|---------------------|---|
| <u> </u> | Amend |
| <u> </u> | Repeal/Cancel (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u> X </u> | Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.) |
| <u> </u> | Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.) |

Explanation of recommendation: Provide a brief summary of your recommendation. If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;



- Consolidate information now available in other documents (e.g., ETAs, WTDs, and court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, and court decisions).

Both rules currently reflect the statutory requirements for (1) art, scientific, and historical collections or (2) performing arts associations to obtain a property tax exemption. Because the rules were recently amended, there is no need to change the rules at present.

11. Manager action: Date: _____

_____ Reviewed and accepted recommendation

Amendment priority:

- _____ 1
- _____ 2
- _____ 3
- _____ 4